

ATTACHMENT

7.2.1

Attachment 1

Supporting Documentation from Elton Consulting



Caerleon

Mapping Correction Planning Proposal

Section 73 Amendment to *Mid Western Regional Local Environmental Plan 2012*

PREPARED FOR

Caerleon Mudgee Pty Ltd ATF Caerleon Mudgee Trust

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1 Summary of the Proposal

1.1 General

This Planning Proposal seeks approval for a housekeeping amendment to the *Mid Western Regional Local Environmental Plan 2012* (LEP 2012) to amend the Land Zoning Maps, Minimum Lot Size Maps and Height of **Building Maps for part of the 'Caerleon' site** (part lot 1, DP 1146227). It is submitted to Mid-Western Regional Council (the Council) by Elton Consulting on behalf of Caerleon Mudgee Pty Ltd ATF Caerleon Mudgee Trust.

The land that is the subject of this Planning Proposal consists of a strip of land between the Gwabegar railway line and the residential land in Caerleon which was previously rezoned for residential development under Mid Western Regional LEP 2012 (Amendment No. 3 published on Legislation website on 15/3/2013).

Specifically, the land that is the subject of this Planning Proposal is a 13.65 metre wide strip on the outside of the correct 40 metres buffer line when measured west from the railway line (i.e. the land between the green and blue lines in Figure 1a / the land highlighted in blue in Figure 1b). As part of the preparation of Amendment No. 3, this land was incorrectly mapped as RE1 Public Recreation.

Although the Gwabegar railway line is not in use, one objective of the Planning Proposal associated with **Amendment No. 3 ('original Planning Proposal')** was to provide an appropriate buffer between the railway line and future residential development within Caerleon. The developers agreed to apply a 40 metre buffer between the railway line and residential lots, to protect the amenity of future housing and provide an opportunity for open space/landscaping.

The purpose of this Planning Proposal is to correct a mapping error/map formatting error by correctly applying a 40 metre buffer to the railway line. Currently, the LEP Maps provide a buffer of approximately 53 metres from the railway line, greater than that which was approved by Council on 17 October 2012.

It is also proposed to request the Minister to expedite this Amendment under the provision of section 73A of the *Environmental Planning & Assessment Act 1979* (EP&A Act). Section 73A allows an LEP Amendment to be made by dispensing with the community and public consultation requirements under section 57, but only if the amendment is to correct an obvious error or misdescription in a map and/or matters that are minor in nature.

1.2 Delegation of Plan Making to Council

With respect to delegation of plan making functions, the Department of Infrastructure and Planning's *A guide to preparing Local Environmental Plans* (2012) states:

"Local plan making functions are now largely carried out by councils. Types of proposed instruments that are routinely delegated to councils to make include mapping corrections."

The Planning Proposal seeks to correct a mapping anomaly/map formatting error, to correctly translate the adopted zoning and associated development standards for the site to the LEP Maps. The Planning Proposal is also consistent with the original Planning Proposal for Amendment No. 3 and therefore is consistent with **Council's Local Strategy and Strategic Directions**.

The Planning Proposal is therefore considered to be appropriate for delegation and it is requested that Council seek delegated responsibility for the making of the LEP from the Minister for Planning and Infrastructure.

To support the request for delegation, a review of the Planning Proposal has been carried out against Planning Circular PS 12-006 and the Department's Evaluation Criteria for the Issuing of a Delegated Authorisation (Refer to Appendix 3).

Planning Circular PS 12-006 states:

" Section 23 of the Act allows the Minister and the Director-General to delegate functions to a council and/or an officer or employee of a council. The department has written to all councils advising that plan making powers are to be delegated under section 23 of the Act. A council is to formally accept the delegation before the department will issue an Authorisation in respect of any individual draft LEP.

If a council chooses to accept the delegation, it may sub-delegate the function to an officer within council (usually the general manager or planning director) who will exercise the delegation. If a council chooses to sub-delegate the function, the council should advise the department at the same time it accepts the delegation. When submitting a planning proposal to the gateway a council should advise the department whether the council or an officer will be exercising the delegated function."

In accordance with this Planning Circular and Evaluation Criteria (Appendix 3), and given that the proposed amendment is to correct a minor mapping anomaly/map formatting error by translating the intent of the original Planning Proposal and DCP to the LEP maps, if the Planning Proposal is supported, it is considered appropriate in these circumstances that Council make a request to the Department of Planning and Infrastructure for delegation of the making of the LEP.

1.3 Expedited Amendments of Environmental Planning Instruments

Section 73A (1) of the EP&A Act outlines the circumstances in which the Minister (or delegate) may dispense with all or part of the plan-making process, including community consultation, under Part 3 Division 4 of the EP&A Act. These circumstances include the following:

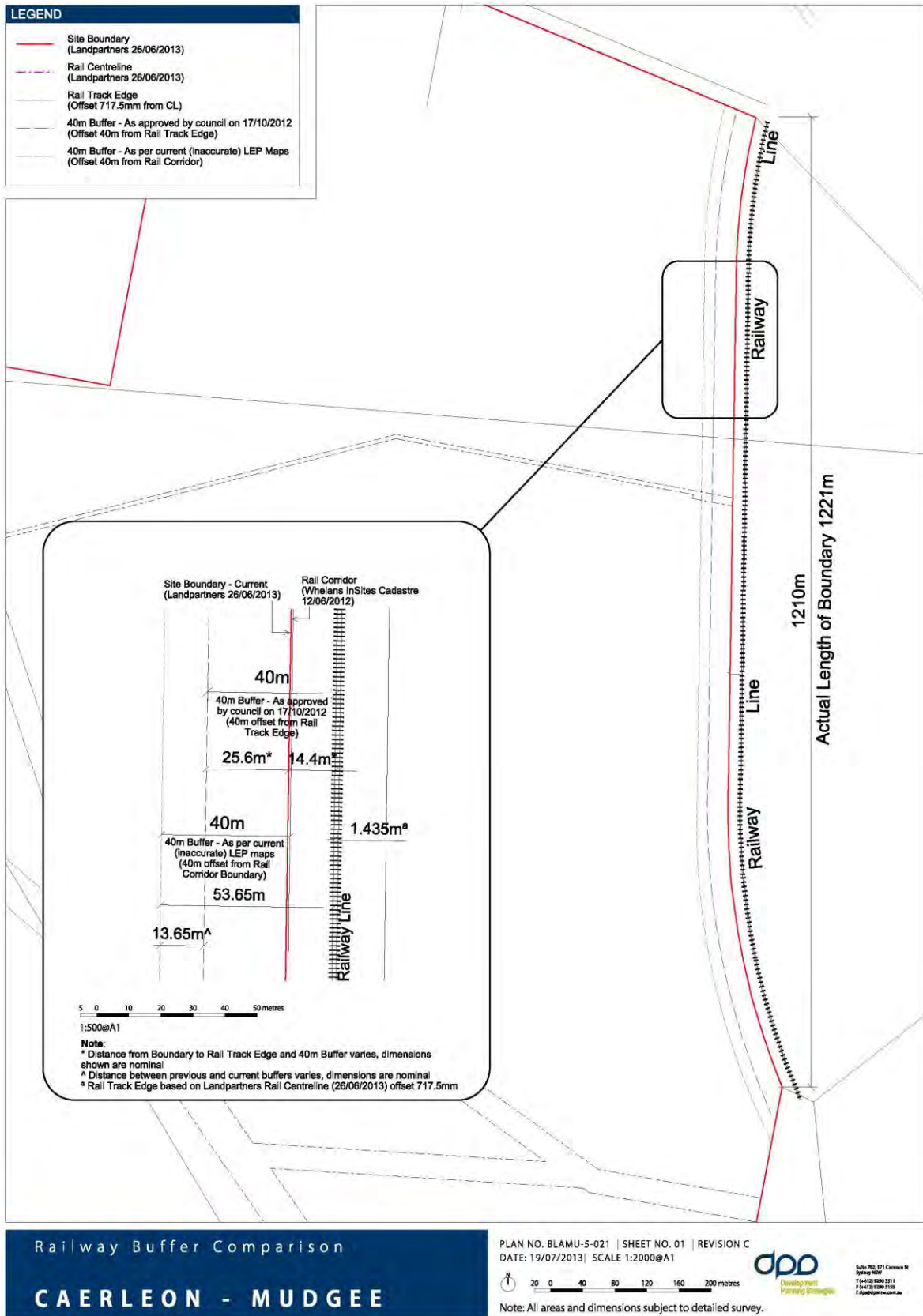
- (a) To correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error;*
- (b) To address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature; or*
- (c) To deal with matters that the Minister considers do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land.*

The Caerleon site was formally rezoned for primarily residential development through the gazettal of Mid Western Regional Local Environmental Plan 2012 (Amendment No. 3) in March 2013. However, as mentioned previously, the land that is the subject of this Planning Proposal was inadvertently mapped incorrectly during the preparation of the LEP mapping.

As this proposal seeks to correct this anomaly by amending the LEP Maps to reflect the intent of the approved Planning Proposal and DCP provisions (as described in the written provisions), it is considered the proposal will not have any significant adverse impact on the environment or adjoining land.

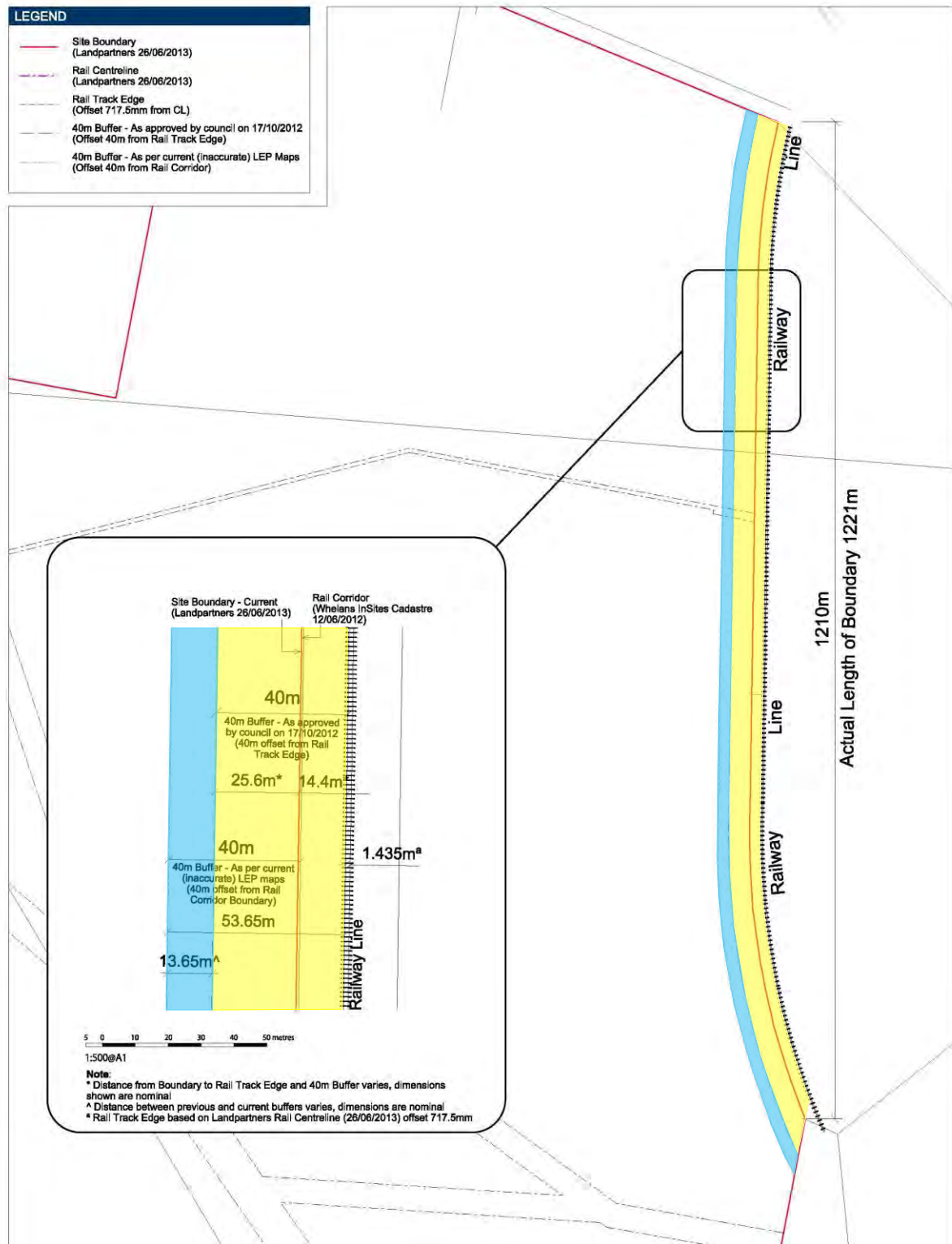
As the proposal is considered to satisfactorily address the requirements under Section 73A (1)(c) of the EP&A Act, it is proposed that Council request the Minister to expedite this amendment by dispensing with the community consultation requirements under Section 57 of the EP&A Act. It is also proposed that Council request the Minister dispense with the requirement for consultation with State and Commonwealth public authorities (under Section 56 of the Act) as no public authority will or may be adversely affected by the proposed instrument.

Figure 1a – Land which is the subject of this Planning Proposal



Source: DPS

Figure 1b – Land which is the subject of this Planning Proposal



40 metre buffer approved by Council on 17 October 2012

Mapping error which has increased the buffer so that it now encroaches into the approved residential zoning area.

Source: DPS

2 Background

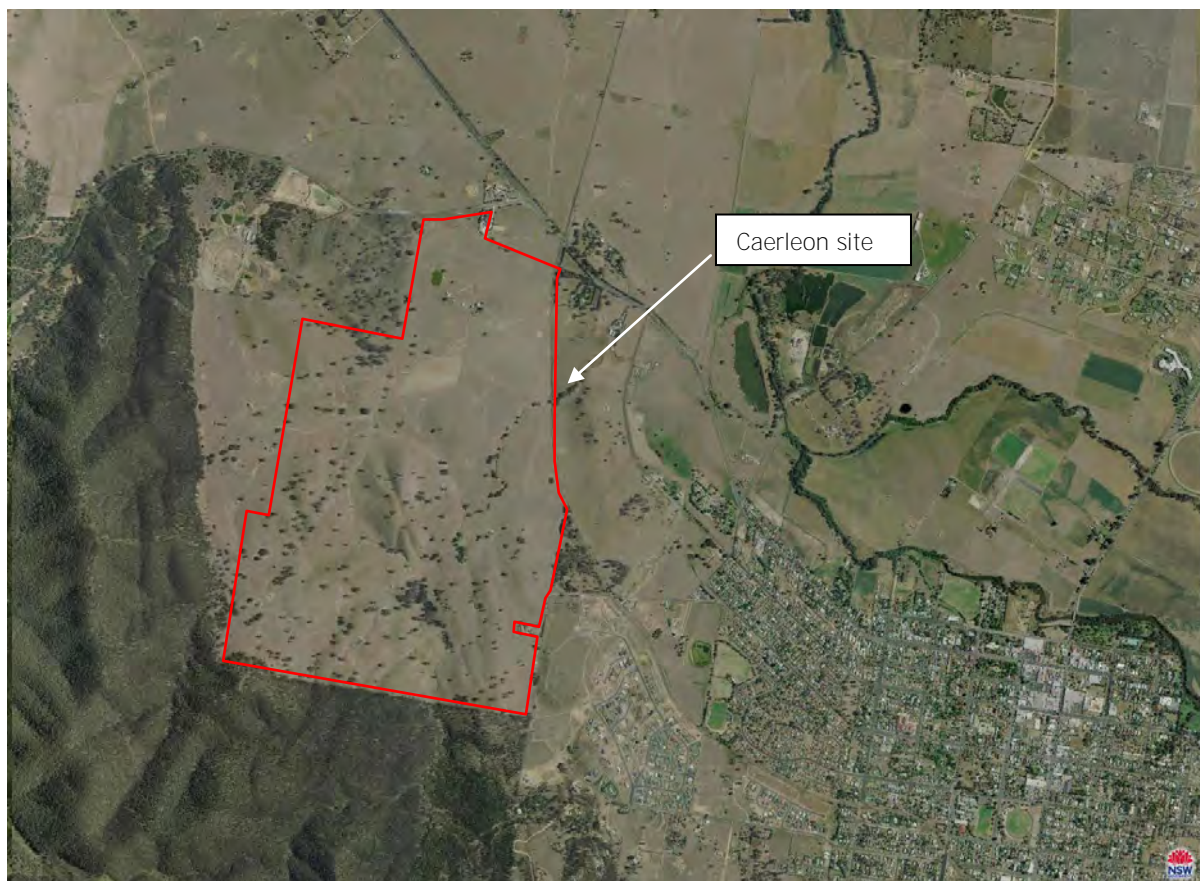
2.1 The Land

The land which is the subject of this Planning Proposal forms part of the Caerleon residential release area generally located to the north west of the existing Mudgee Township.

The Caerleon site boundary is highlighted in red on the aerial photograph (see Figure 2) and is adjacent to the Gwabegar railway corridor.

The land which is the subject of this Planning Proposal includes part of the former Lot 1 DP 1146227, which is shown highlighted in red in Figure 2 (Figure 3). Following the recent approval of the Stage 1 development application for part of the subject land, the lot boundaries have changed. This information has not been updated on the NSW Department of Lands online mapping system.

Figure 2 – Aerial Photograph (Caerleon site)



Source: Six Spatial Exchange (2013)

Figure 3 – Aerial Photograph (Lot which contains the subject site)



Source: Six Spatial Exchange (2013)

2.2 Relevant background

2.2.1 Rezoning

The site was zoned RU1 under the Local Environmental Plan 2012 at the time the LEP was converted to the Standard Instrument LEP format.

As part of the planning for the Caerleon release area, it was determined that the site was suitable for residential development. Given the proximity of the site to the historic Gwabegar railway line it was deemed appropriate that a buffer be applied to separate the proposed residential lots from the railway tracks. The developer agreed that a RE1 Public Recreation zone be applied to the land that forms part of the buffer.

The Gwabegar railway line is a historic railway line that passes through Mudgee to Gulgong, eventually leading to Gwabegar. The railway line extends to the north-west of the Mudgee township and forms a border between the suburbs of Mudgee and Caerleon to the north-west. The railway has been decommissioned and is no longer in use. Approximately 14.4 metres separate the railway line from the Caerleon boundary.

Following exhibition of the Planning Proposal to rezone the site, the Council considered and agreed to a submission to reduce the buffer width to 40 metres from the railway line. The submission outlined that a 40 metre buffer was appropriate and justifiable for the following reasons:

1. The width of rail corridor buffers is determined on a case-by-case basis; a comparison of surrounding areas was undertaken to ascertain the typical distances between residential development and railway lines in

similar regional areas, including Mudgee, where buffer distances range from approximately 10 metres up to 45 metres.

2. Although the railway line is closed to rail traffic, the provision of a 40 metre buffer is still an appropriate distance to manage any potential noise and vibration impacts if the railway line is used in the future, consistent with NSW Department of Planning and Infrastructure guidelines for development near rail corridors (Development near Rail Corridors and Busy Roads – Interim Guideline, published December 2008).
3. The provision of additional buffer land along the railway is considered to be unnecessary as it adds to the cost of ongoing maintenance, and is not an efficient use of land.
4. A 40 metre buffer distance is suitable to minimise visual impact of the rail corridor, and the provision of natural landscaping in the buffer area will neutralise the visual impact of the railway on nearby residential development.

Council resolved to amend the LEP and DCP for Caerleon by amending the buffer from 50 to 40 metres at its Council Meeting on 17/10/2012. In addition, it was resolved to amend Section 4.1 of the Draft Caerleon DCP as follows:

"A 40m-wide open space buffer (measured from the railway line) is to be provided along the railway line and may incorporate road reserve, open space, drainage, landscaping and underground services. Housing adjacent to the buffer is to be oriented towards the street/buffer where possible for increased surveillance opportunities."

However, as part of the preparation of the LEP Maps there was a mapping error which mistakenly applied a 40 metre buffer, in the form of an RE1 zone, measured from the railway corridor/boundary rather than the railway line itself. This inadvertently created a railway buffer of approximately 53 metres to the residential zoned land within Caerleon, which is inconsistent with the intent of the provisions in the DCP and the objectives as described in the original Planning Proposal.

The Minimum Lot Size and Building Height Maps were also inadvertently prepared incorrectly as the lot size and height boundaries along this part of the site reflect the zoning anomaly. This anomaly needs to be amended by correctly translating the intent of the Planning Proposal and DCP provisions (as described in the written provisions) to the zoning and associated development standards.

2.2.2 Development application

A development application was submitted to Council for Stage 1 of Caerleon, located in the northern portion of the site (Figure 4). The DA also proposed a significant park of almost 20,000 sqm adjacent to the railway line to function as a buffer and area of public open space and recreation.

Six lots (lots no. 047 – 052) are located in the eastern portion of the site near the railway corridor.

The mapping error was identified during the preparation and assessment of the DA, as the six residential lots nearest to the railway line now encroach within the RE1 zone. As a result these lots currently have a split zoning whereby approximately 5 metres of the lot from the road frontage is zoned as RE1 and the balance of the lot is zoned R1. Council and the applicant discussed the mapping error after it was identified, and Council proceeded with the determination of the DA on the premise that that the split zoning would be corrected.

Council approved the DA on 19/6/2013 subject to a condition that restricts the occupation of those lots for residential purposes until the zoning anomaly has been corrected. This allowed the subdivision to proceed while the mapping error is amended.

A chronology of the approvals process is provided below:

Date	Description
2/5/2012	Council resolved to endorse the Caerleon Planning Proposal and forward it to the NSW Department of Planning and Infrastructure for Gateway approval, and simultaneously endorsed a Draft Development Control Plan (DCP).
6/7/12	NSW Department of Planning and Infrastructure issued Gateway approval.
24/8/12	Exhibition of the Caerleon Planning Proposal and Draft DCP.
17/10/12	Council resolved to make a number of amendments to the exhibited Planning Proposal and DCP, including endorsement of a recommendation that the railway buffer be measured 40 metres from the railway line (as opposed to 50 metres).
15/3/2013	Mid Western Regional Local Environmental Plan 2012 (Amendment No. 3) was published on the NSW Legislation website.
19/6/2013	Development Application (stage 1) approved.

Figure 4 – Caerleon Neighbourhood 1 DA (Landscape Master Plan)



Source: Site Image

3 Planning Proposal

This Planning Proposal is prepared in accordance with *A guide to preparing Planning Proposals* (2012) under issued under s55 (3) of the *Environmental Planning and Assessment Act 1979*. Section 55 (2) of the Act outlines that a planning proposal must include the following components:

- **Part 1** – A statement of the objectives and intended outcomes of the proposed instrument
- **Part 2** – An explanation of the provisions that are to be included in the proposed instrument
- **Part 3** – The justification for those objectives, outcomes and the process for their implementation
- **Part 4** – Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies
- **Part 5** – Details of the community consultation that is to be undertaken on the planning proposal.

Part 1 Objectives of the Planning Proposal

The objective of this Planning Proposal is to correct a mapping anomaly affecting a narrow portion of land adjacent to the Gwabegar railway corridor in Caerleon. The intended outcomes of the Planning Proposal are to:

- Amend the Lane Zoning, Minimum Lot Size and Height of Building Maps in LEP 2012 to correct the mapping error, thereby ensuring that Lots 047 – 052 in Stage 1 of the Caerleon development are no longer affected by a split zoning; and
- Enable the future development of Lots 047 – 052 in Stage 1 of Caerleon for residential purposes by reinstating the R1 zone to this land as intended by the Planning Proposal.
- Ensure the 40m buffer zone approved by Council is consistent along the boundary of Caerleon and Gwabegar railway line.

Part 2 Explanation of the Provisions

It was the intent of both the Mid Western Regional LEP 2012 (Amendment No. 3) and the associated site specific DCP for Caerleon to apply a 40 metres buffer between residential development in Caerleon and the railway line. Unfortunately, a mapping error on the Land Zoning Map meant that the buffer applied was actually approximately 53 metres wide. This in turn resulted in the residential lots adjacent to the buffer in Neighbourhood 1 to be affected by a split zone.

This Planning Proposal proposes the following amendments to the LEP maps to correct this error:

Map	Description
Land Zoning Map 5270_COM_LZN_006_160_20130215 5270_COM_LZN_006C_010_20130422	Replace the Land Zoning Maps with amended version that change the location of the R1 zone along the railway corridor to be 40 metres from the railway line, see Part 4 of this Planning Proposal.
Height of Buildings Map 5270_COM_HOB_006_160_20121127 5270_COM_HOB_006C_010_20130418	Replace the Height of Buildings Maps with amended versions that correspond with the revised edge of the R1 zone, see Part 4 of this Planning Proposal.
Minimum Lot Size Map 5270_COM_LSZ_006_160_20130320 5270_COM_LSZ_006C_010_20130422	Replace the Minimum Lot Size Maps with amended versions that correspond with the revised edge of the R1 zone, see Part 4 of this Planning Proposal.

Part 3 Justification

This section sets out the justification for the Planning Proposal. In accordance with the NSW Department of Planning and Infrastructure's guidelines, this section contains:

- *a response is provided to each of the specific questions listed;*
- *the level of justification should be proportionate to the impact the planning proposal will have;*
- *it is not necessary to address a question if it is not considered relevant to the planning proposal. In such cases the reason why it is not relevant should be briefly explained, and;*
- *the level of justification should be sufficient to allow a Gateway determination to be made with the confidence that the LEP can be finalised within the time-frame proposed.*

Section A Need for the Planning Proposal

Q1. Is the planning proposal a result of any strategic study or report?

This Planning Proposal is not a direct result of any strategic study or report. It has arisen as a direct result of an error in the LEP Mapping that was identified during the development application stage, for the subject land. The Mapping error related to Amendment No. 3 of the Mid Western Regional LEP 2012, which was the result of extensive strategic studies and assessment. This planning proposal aligns with the intent of Amendment No. 3 and in fact aims to correct an error in translation of Amendment No. 3 (and the associated DCP) to the LEP Mapping.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, the Planning Proposal is the best means of achieving the objectives for the site.

The Planning Proposal is the only way of achieving the objectives or intended outcomes as an LEP Map can only be amended through a formal amendment of the LEP.

Without the Planning Proposal, Lots 047 – 052 will permanently be restricted from development as residential sites, which will result in adverse interface between the open space park proposed to be located along the railway corridor and the built form in Caerleon.

However, given the minor nature of the amendment, being the correction of a mapping error, it is requested that authority to make the planning proposal be delegated to Council and that the amendments be expedited pursuant to Section 73A (1) of the EP&A Act, by dispensing with the community consultation requirements under Section 57 of the Act and the requirement for consultation with State and Commonwealth public authorities under Section 56 of the EP&A Act.

Section B Relationship to strategic planning framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Not applicable.

As stated in response to Q1. this Planning Proposal seeks to correct a mapping error and error in translating the intent of Planning Proposal (known as Amendment No. 3) and associated DCP to the LEP Maps.

However, Amendment No. 3 of the Mid Western Regional LEP 2012 was subject to rigorous assessment against the strategic planning framework, including, but not limited to, demonstration of consistency with Mid-Western Regional Draft Comprehensive Land Use Strategy, Mid-Western Region Community Plan – Towards 2030 (then Draft) and Mid-Western Regional Economic Development Strategy.

Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Yes.

The Planning Proposal is consistent with Strategy 2.4 of Council's Community Plan Towards 2030. Strategy 2.4 is: *Develop tools that simplify development processes and encourage high quality commercial and residential development.* The Planning Proposal is the mechanism to allow Council to correct an LEP Mapping error that will allow the residential development at Caerleon to proceed as envisaged in the adopted Concept Plan and DCP for the site.

Refer also to Q. 3 above.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

No SEPP's are applicable to this Planning Proposal.

It is noted that although not strictly applicable, the proposal is consistent with the guidelines that accompany SEPP (Infrastructure) 2007. As noted in a previous submission to Council during the Planning Proposal for Amendment No 3, the provision of a 40m buffer is consistent with the NSW Department of Planning and Infrastructure guidelines for development near rail corridors (Development near Rail Corridors and Busy Roads – Interim Guideline, published December 2008).

Whilst the guidelines do not provide a numerical standard, they state that when considering residential subdivision located near a rail corridor, potential noise and vibration impacts should be considered at the master planning/concept planning stage. For Caerleon, given that the railway line is decommissioned, there is no impact of noise and vibration.

Should the railway line re-open in the future, the frequency of trains would be minimal given the regional location of the site.

A 40m buffer from the railway line is therefore considered to be appropriate from a noise and vibration perspective.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The proposal is consistent with the applicable Section 117 Directions.

Refer to the table below.

Applicable S. 117 Direction	Consistency
1.1 Business and Industrial Zones	Not relevant
1.2 Rural Zones	Not relevant
1.3 Mining, Petroleum Production and Extractive Industries	Not relevant
1.4 Oyster Aquaculture	Not relevant
1.5 Rural Lands	Not relevant
2.1 Environment Protection Zones	Not relevant
2.2 Coastal Protection	Not relevant
2.3 Heritage Conservation	Not relevant
2.4 Recreation Vehicle Areas	Not relevant
3.1 Residential Zones	<p>Yes. This Direction states that a planning proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> a) broaden the choice of building types and locations available in the housing market b) make more efficient use of existing infrastructure and services c) reduce the consumption of land for housing and associated urban development on the urban fringe d) be of good design. <p>This Direction also states that a planning proposal, in relation to land to which this direction applies:</p> <ul style="list-style-type: none"> (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it) (a) not contain provisions which will reduce the permissible residential density of land. <p>The Planning Proposal seeks to amend an LEP Mapping error that has resulted in a split zoning for 6 proposed residential lots in the Caerleon estate. By correcting the mapping error, the Planning Proposal facilitates the full development of these approved lots, and therefore the provision of residential dwellings. In turn, this supports the supply of residential development in the Mudgee region.</p>
3.2 Caravan Parks and Manufactured Home Estates	Not relevant
3.3 Home Occupations	Not relevant
3.4 Integrating Land Use and Transport	Not relevant
3.5 Development Near Licensed Aerodromes	Not relevant

Applicable S. 117 Direction	Consistency
3.6 Shooting Ranges	Not relevant
4.1 Acid Sulfate Soils	Not relevant
4.2 Mine Subsidence and Unstable Land	Not relevant
4.3 Flood Prone Land	Not relevant
4.4 Planning for Bushfire Protection	Not relevant
5.1 Implementation of Regional Strategies	Not relevant
5.2 Sydney Drinking Water Catchments	Not relevant
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not relevant
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not relevant
5.8 Second Sydney Airport: Badgerys Creek	Not relevant
6.1 Approval and Referral Requirements	Yes. There are no concurrences, consultation or referrals proposed within this Planning Proposal. All relevant referrals occurred during the Planning Proposal process for Amendment No. 3. No new types of designated development will result from this Planning Proposal.
6.2 Reserving Land for Public Purposes	Not relevant
6.3 Site Specific Provisions	Yes. The Planning Proposal seeks to amend a mapping error that will result in the rezoning of a narrow strip of land to R1, by applying the current R1 zone and its associated development standards, as they currently appear in the LEP. No new development standards or requirements in addition to those already contained in that zone are proposed to be introduced.
7.1 Implementation of the Metropolitan Plan for Sydney 2036	Not relevant

Section C Environmental, social and economic impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No.

Q9. Has the planning proposal adequately addressed any social and economic effects?

Yes.

The Planning Proposal has considered the potential social and/or economic impacts of the LEP Map amendment. There are no adverse social and/or economic impacts resulting from the proposal. The Council previously adopted a proposal to make the buffer distance between residential dwellings and the railway line 40 metres in width. This decision considered the NSW Department of Planning and Infrastructure guidelines for development near rail corridors (Development near Rail Corridors and Busy Roads – Interim Guideline, published December 2008).

Although not strictly applicable to the site and despite the railway line being decommissioned, the provision of a 40 metre buffer is an appropriate distance to manage any potential noise and vibration impacts if the railway line is used in the future.

It is also noted that the LEP Map amendment will continue to ensure an adequate buffer distance that is consistent with buffer widths to railway lines in Mudgee and other regional centres. Appendix 1 contains examples of buffer widths for residential development in the Mudgee Township, including the Glen Ayr development. Distances range from 20 metres to 40 metres.

This is simply a request to have the mapping amended to correctly reflect what has already been agreed to by Council.

Section D State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

Not relevant.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

As the planning proposal seeks to correct a mapping anomaly / formatting error to correctly translate the intent of the planning controls to the LEP Maps for the site, the proposal is considered to be of a minor nature. Section 73A (1) of the EP&A Act includes a number of circumstances in which the Minister (or delegate) may dispense with all or part of the plan-making process, including community consultation, under Part 3 Division 4 of the EP&A Act. These circumstances include the following:

- (a) correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error;*
- (b) address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature; or*
- (c) deal with matters that the Minister considers do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land.*

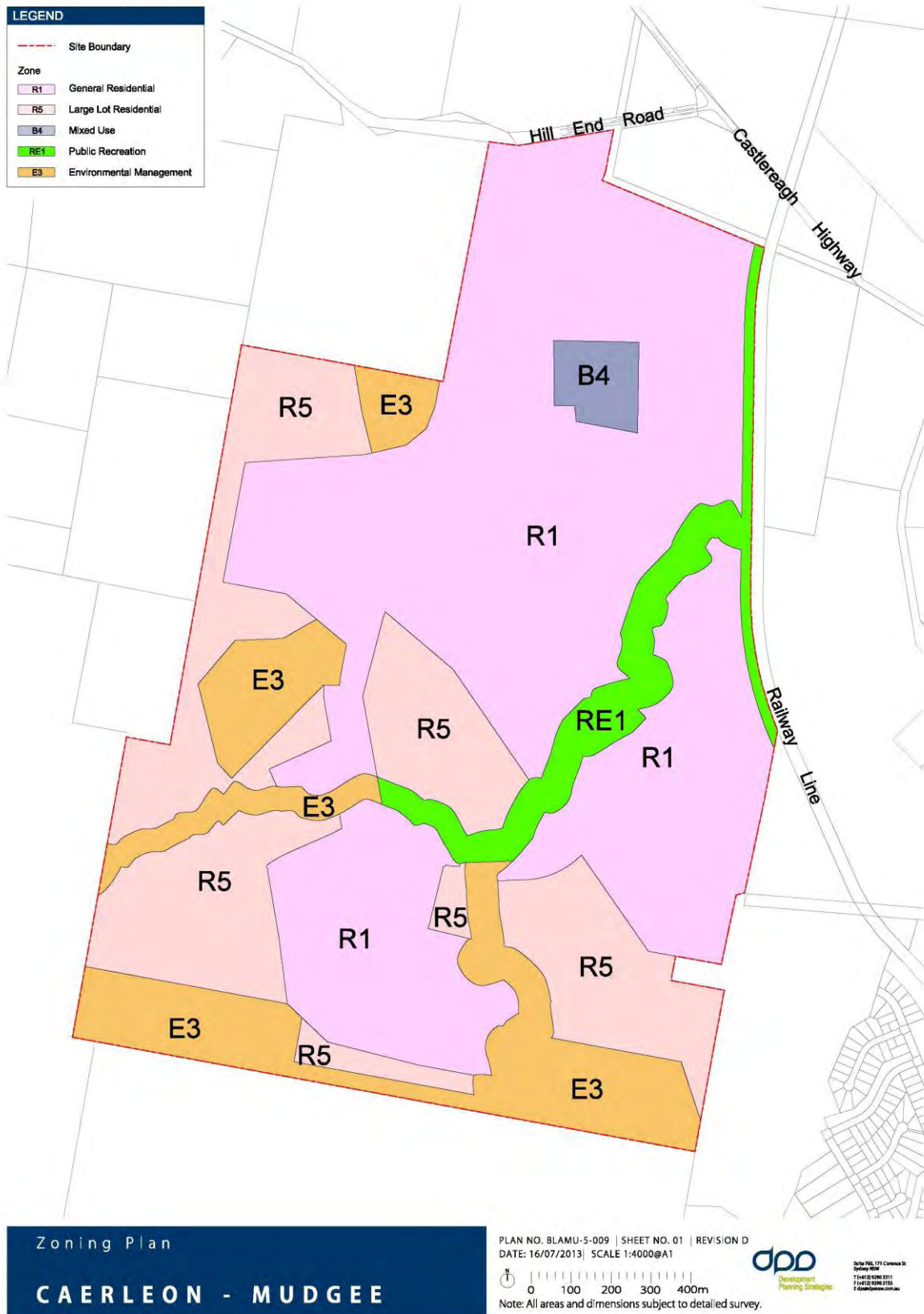
As outlined in section 1.2 of this report, the proposal is considered to satisfactorily address the requirements under Section 73A (1)(c) of the EP&A Act, and it is proposed that Council request the Minister to expedite this amendment by dispensing with the community consultation requirements under Section 57 of the EP&A Act. It is also proposed that Council request the Minister dispense with the requirement for consultation with State and Commonwealth public authorities (under Section 56 of the EP&A Act) as no public authority will or may be adversely affected by the proposed instrument.

Part 4 Mapping

Part 2 of this Planning Proposal explains the provisions to enact the proposed amendments. The provisions are to amend the Land Zoning, Minimum Lot Size and Height of Buildings Maps in *Mid Western Regional LEP 2012* as shown in Figures 4, 5 and 6 below.

It is noted that the LEP Maps affecting the Caerleon site cross two map grids, grid 006 and 006C. The maps provided in Figures 4, 5 and 6 show the proposed mapping change on single sheets for ease of readability.

Figure 4 – Proposed (corrected) Land Zoning Map



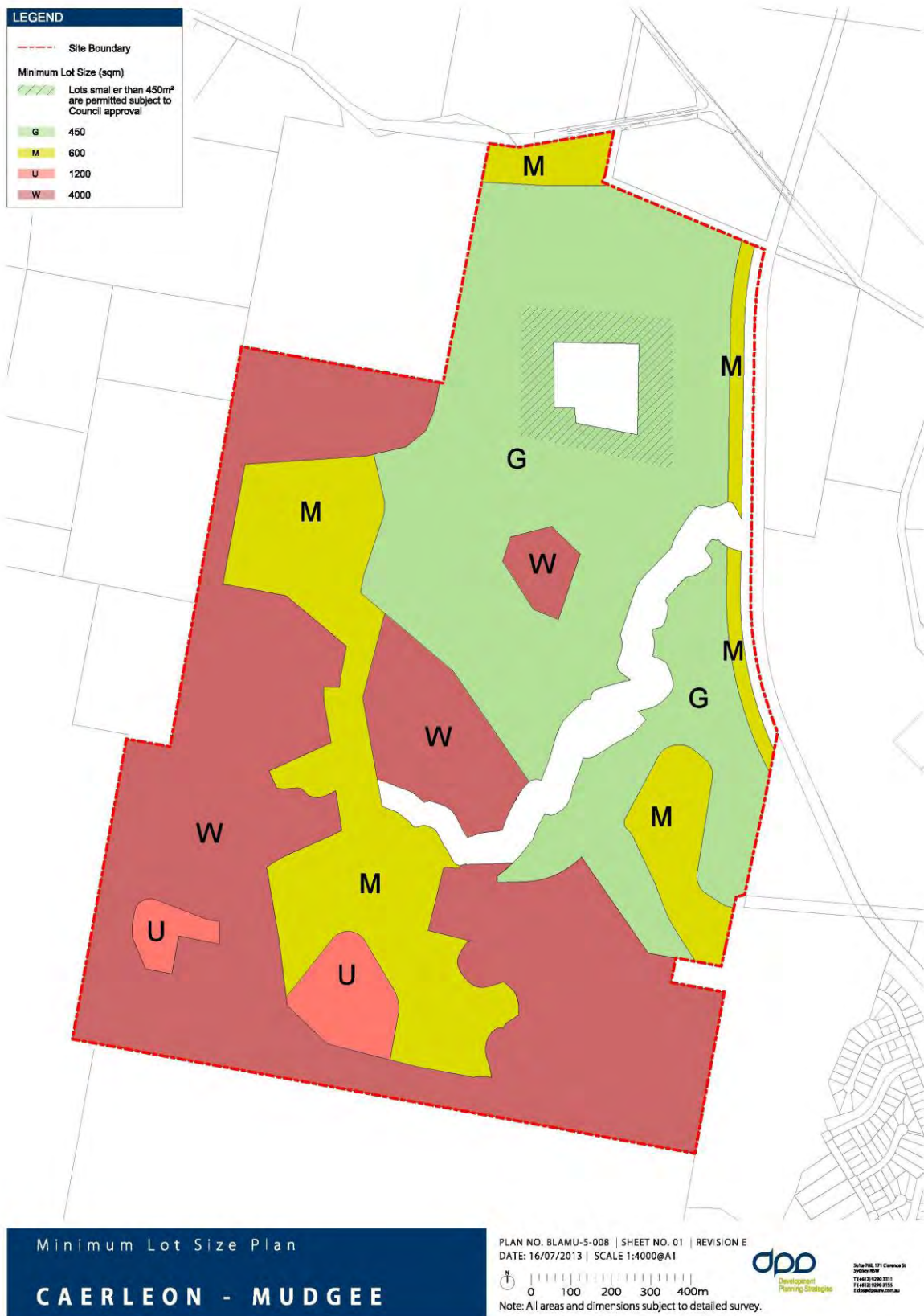
Source: DPS

Figure 5 – Proposed (corrected) Height of Buildings Map



Source: DPS

Figure 6 – Proposed (corrected) Minimum Lot Size Map



Source: DPS

Part 5 Community Consultation

As the planning proposal seeks to correct a mapping anomaly / formatting error to correctly translate the intent of the planning controls to the LEP Maps for the site, the proposal is considered to be of a minor nature.

Section 73A (1) of the EP&A Act outlines the circumstances in which the Minister (or delegate) may dispense with all or part of the plan-making process, including community consultation, under Part 3 Division 4 of the EP&A Act.

These circumstances include the following:

- (a) correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error;*
- (b) address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature; or*
- (c) deal with matters that the Minister considers do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land.*

As outlined in section 1.2 of this report, the planning proposal is considered to satisfactorily address the requirements under Section 73A (1)(a) and (c) of the EP&A Act, and it is considered appropriate that Council request the Minister to expedite this amendment by dispensing with the community consultation requirements under Section 57 of the EP&A Act. It is also proposed that Council request the Minister dispense with the requirement for consultation with State and Commonwealth public authorities (under Section 56 of the EP&A Act) as no public authority will or may be adversely affected by the proposed instrument.

The original Planning Proposal was the subject of community consultation and discussion with authorities. It was exhibited for 28 days commencing 24 August along with the Draft Caerleon Development Control Plan.

The Council ultimately approved the rezoning on 17 October 2012 with a 40 metre buffer to the railway line. Dispensation with the requirements for further consultation is appropriate for this Planning Proposal, as it seeks to correct a mapping error which will align the LEP maps with the previous approval.

4 Conclusion

This Planning Proposal is considered to be minor in nature. It relates to the correction of LEP maps so that the maps show the intended outcome sought under the Mid Western Regional LEP Amendment No. 3 and Caerleon DCP, and reflect the text within these documents, which have previously been approved by Council on 17 October 2012.

It is therefore requested that Council:

- endorse this Planning Proposal to amend the mapping error and forward it to the NSW Department of Planning and Infrastructure;
- request that Council be delegated plan making authority;
- request that the plan making process be expedited by removing the requirements for consultation in accordance with Section 73A (1) of the *Environmental Planning and Assessment Act 1979*.

5 Appendix

- 5.1 Appendix 1 – Information Checklist for Planning Proposals
- 5.2 Appendix 2 – Evaluation Criteria for the Issuing of a Delegated Authorisation
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Appendix 1 – Information Checklist for Planning Proposals

INFORMATION CHECKLIST

Attachment 1

> STEP 1: REQUIRED FOR ALL PROPOSALS

(under s55(a) – (e) of the EP&A Act)

- Objectives and intended outcome
- Mapping (including current and proposed zones)
- Community consultation (agencies to be consulted)
- Explanation of provisions
- Justification and process for implementation (including compliance assessment against relevant section 117 direction/s)

> STEP 2: MATTERS - CONSIDERED ON A CASE BY CASE BASIS

(Depending on complexity of planning proposal and nature of issues)

PLANNING MATTERS OR ISSUES	To be considered	N/A	PLANNING MATTERS OR ISSUES	To be considered	N/A
Strategic Planning Context			Urban Design Considerations		
• Demonstrated consistency with relevant Regional Strategy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Existing site plan (buildings vegetation, roads, etc)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Demonstrated consistency with relevant sub-regional strategy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Building mass/block diagram study (changes in building height and FSR)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Demonstrated consistency with or support for the outcomes and actions of relevant DG endorsed local strategy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Lighting impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Demonstrated consistency with Threshold Sustainability Criteria	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Development yield analysis (potential yield of lots, houses, employment generation)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Site Description/Context			Economic Considerations		
• Aerial photographs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	• Economic impact assessment	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Site photos/photomontage	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Retail centres hierarchy	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Traffic and Transport Considerations			• Employment land	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Local traffic and transport	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Social and Cultural Considerations		
• TMAP	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Heritage impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Public transport	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Aboriginal archaeology	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Cycle and pedestrian movement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Open space management	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Environmental Considerations			• European archaeology	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Bushfire hazard	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Social and cultural impacts	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Acid Sulphate Soil	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Stakeholder engagement	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Noise impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Infrastructure Considerations		
• Flora and/or fauna	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Infrastructure servicing and potential funding arrangements	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Soil stability, erosion, sediment, landslip assessment, and subsidence	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Miscellaneous/Additional Considerations		
• Water quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	List any additional studies N/A		
• Stormwater management	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
• Flooding	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
• Land/site contamination (SEPP55)	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
• Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining)	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
• Sea level rise	<input type="checkbox"/>	<input checked="" type="checkbox"/>			

Appendix 2 – Evaluation Criteria for the Issuing of a Delegated Authorisation

EVALUATION CRITERIA FOR THE DELEGATION OF PLAN MAKING FUNCTIONS

Checklist for the review of a request for delegation of plan making functions to council

Local Government Area: Mid-Western Regional Council Local Government Area

Name of draft LEP: Mid Western Regional Local Environmental Plan (Amendment No. x)

Address of the Land (if applicable): Lot 1 DP 1146227, at Hill End Road, Caerleon

Intent of the draft LEP: The intent of the Draft LEP is to correct a mapping error in the following LEP Maps, in order that the maps correctly reflect the approved Planning Proposal and Caerleon DCP (approved by Council 17 October 2013) in relation to the width of the buffer to the railway corridor. The LEP maps to be amended are:

Land Zoning Maps:

5270_COM_LZN_006_160_20130215
5270_COM_LZN_006C_010_20130422)

Height of Buildings Maps:

5270_COM_HOB_006_160_20121127
5270_COM_HOB_006C_010_20130418

Minimum Lot Size Maps:

5270_COM_LSZ_006_160_20130320
5270_COM_LSZ_006C_010_20130422.

Other supporting information: Refer to Planning Proposal Report.

Evaluation criteria for the issuing of an Authorisation	Council response		Department assessment	
	Y/N	<i>Not relevant</i>	Agree	<i>Not agree</i>
(Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)				
Is the planning proposal consistent with the Standard Instrument Order, 2006?	YES			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	YES			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	YES			
Does the planning proposal contain details related to proposed consultation?		N/A		
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	YES			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?		N/A		
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	YES			
Minor Mapping Error Amendments	<i>Y/N</i>			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	YES			
Heritage LEPs	<i>Y/N</i>			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	NO			
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?	NO			
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?	NO			

Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?		N/A		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		N/A		
Is the planning proposal proposed to rectify an anomaly in a classification?		N/A		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		N/A		
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?		N/A		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		N/A		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?		N/A		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		N/A		
Spot Rezonings	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	NO			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	NO			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	NO			
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		N/A		

Does the planning proposal create an exception to a mapped development standard?	NO			
Section 73A matters				
<p>Does the proposed instrument</p> <p>a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?;</p> <p>b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or</p> <p>c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?</p> <p>(NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A(1)(c) of the Act in order for a matter in this category to proceed).</p>	YES			

NOTES

- Where a council responds ‘yes’ or can demonstrate that the matter is ‘not relevant’, in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.

Appendix 3 – Additional information

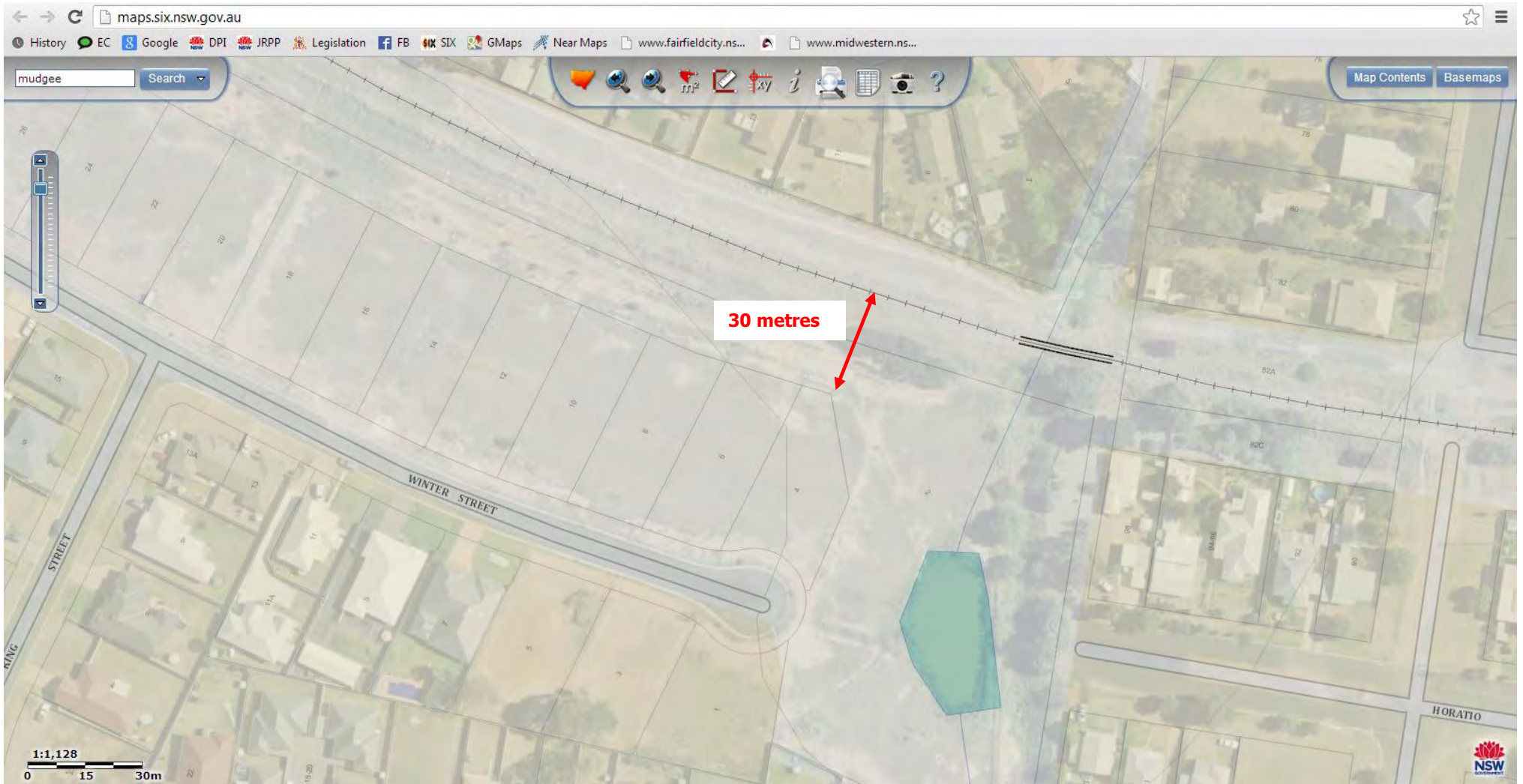
The following maps were previously provided to Council to demonstrate examples of appropriate buffer widths to residential development in the Mudgee Township.

Example 1: Hoartio Street, Smith Street, Mudgee



Source: SIX Spatial Information Exchange (NSW Dept of Lands)

Example 2: Winter Street, Mudgee



Source: SIX Spatial Information Exchange (NSW Dept of Lands)